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File No. O Registration 51

Legal Department
A BRANCH

Subject:— Opinions under the Indian Registration Act, 1908

O. Registration/51

431-A

C O N T E N T S.

Legal Department File No.O.Registration/51

Sr.No.	R.I./O.No.	Subject	Pages.
		Indian Registration Act, 1908.	
1	6227 2-4-51 6728 27-4-51	Drafting of documents by unqualified persons - to put a stop to - whether rules can be made under Sec. 69 purporting to control thedrafting of documents which are compulsorily registerable.	1-6

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Office of the R.L.A.

The Registration Act is an enactment dealing with the registration of documents and any rules made thereunder may affect registration of documents and therefore mostly the documents of which registration is to be drafted by a qualified bondwriter may lead to a considerable inconvenince to the public. The intention appears to be to put a stop to the drafting of documents by unqualified persons and not to the registration of such documents.

In order to be a good conveyancer sound knowledge of the law of contract with special reference to property including land tenure, as also of the interpretation and construction of documents relating to several other transactions also falls within the functions of a conveyancer and therefore knowledge of general law is also to certain extent essential. It may therefore be desirable to require every person to pass a prescribed test before he can be permitted to practice as a bond writer. Registration department may find it difficult to conduct any such test.

In England the Solicitors Act, 1932 provides that any person not being a barrister or duly certificated Solicitor notary public or a conveyancer who for or in expectation of any fee, gain or reward either directly or indirectly draws or prepares any instrument relating to real or personal estate or any legal proceedings or draws or prepares any instrument of transfer or charge for the purposes of Land Registration Act, 1925 or lodges any document for registration under that Act at the registry, is on summary conviction liable to find. The first two prohibitions, however, do not apply to any public officer drawing or preparing instruments and applications in the course of his duty or any person employed merely to engross any instrument or application. Shri Pataskar's Bill Adopts the above provisions of English law and is, therefore, a welcome measure. The Bill may also suitably provide for including bond-writers amongst the qualified

persons and for establishing an authority who may prescribe qualifications, conduct the tests and grant certificates to the bond writers.

Id/- U.R. DHURANDHAR.
Remembrancer of Legal Affairs.

U.R.to Advocate General No.5227, dated the 2nd April 1951.

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No. of 1951.

Advocate General's Chambers,
High Court,
Bombay, the 25th April 1951.

U.O.R. to the Advocate General of Bombay,
No.5227, dated the 2nd of April 1951.

Opinion

In my opinion, rules cannot be made under section 69 or any other provision of the Registration Act, purporting to control the drafting of documents which are compulsorily registerable. Substantive legislation would have to be undertaken. I agree that it is desirable that there should be some test before a person can be permitted to practise as a bond writer. Shri Pateskar's Bill will meet the situation.

Whether under the proposed Act or rules made thereunder, there should be some saving clause in regard to these persons who are already practising as bond writers, subject to their having practised as such for a certain minimum period. At any rate those who have for many years practised as such, and who may by reason of the proposed lgislation be ousted, ought in some manner be protected and be enabled to practice notwithstanding that they may not have passed the requisite test.

Sd/-
Advocate General.

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Copies of Legal Department U.R. to Advocate General No. 5227, dated the 2nd April 1951 and the Advocate General's opinion dated the 25th April 1951 are appended herewith.

Id/- B. D. MIRCHANDANI.
Remembrancer of Legal Affairs.

U.R. to R.D., No.6728, dated the 27th April 1951.

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